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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,507

06/26/2003

G. Thomas Athens

F-703

5201

7590

01/26/2010

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EXAMINER

MURDOUGH, JOSHUA A

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

01/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/606,507	Applicant(s) ATHENS ET AL.	
	Examiner JOSHUA MURDOUGH	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15, 18-32, 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 18-32, 42, and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendments received 9 September 2009.
2. This action has been assigned paper number 20100115 for reference purposes only.
3. Claims 12-15, 18-32, 42, and 43 are pending.
4. Claims 12-15, 18-32, 42, and 43 have been examined.

Claim Objections

5. Claims 14, 15, and 25 are objected to because of the following informalities:
 - a. Claim 14 recites "one of the time stamp." The Examiner's position is that this is a typographical error and was intended to read "one of the time stamps."
 - b. Claim 15 recites "the time stamp includes." The Examiner's position is that this is also a typographical error and was intended to read "the time stamps include."
 - c. Claim 25 recites "the determined difference with corresponding data provide in the usage data." The Examiner's position is that this is a typographical error and was intended to read "the determined difference with corresponding data provided in the usage data."
6. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 12, 18-25, 29-32, 42, & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leon (US 6,424,954) in view of Lertzman (US 2004/0006510).

9. As to claim 12, Leon shows:

receiving a first audit record from the value dispensing device, (signed message, Figure 5F, 5214)

the first audit record generated by the value dispensing device (“SMD”) at the start of an audit period, the first audit record including a value of at least one register maintained by the value dispensing device at a start of the audit period (Figure 5F, 5214) (Column 18, lines 47-56)

and a first digital signature, (Column 18, lines 47-56 & Column 101, lines 18-20)

receiving a second audit record from the value dispensing device (“SMD”), the second audit record generated by the value dispensing device at the end of the audit period, (signed message, Figure 5F, 5214)

the second audit record including a value of at least one register maintained by the value dispensing device at a end of the audit period, (Figure 5F, 5214) (Column 18, lines 47-56)

and a second digital signature; (Column 18, lines 47-56 & Column 101, lines 18-20)

receiving usage data from the value dispensing device for the audit period; (STATUS message, Column 85, lines 1-6 & following table)

determining that the first and second digital signatures verify; (Figure 5F, 5218)

(Column 61, lines 41-50) (Column 9, lines 11-20),

and if the determined difference correlates with the corresponding data provided in

the usage data, generating a usage report for the value dispensing system based on

the usage data. (Figure 8F, element 890)

10. Leon does not expressly show:

determining the difference between the value of the at least one register at the end of

the audit period and the start of the audit period;

comparing the determined difference with corresponding data provided in the usage

data;

11. However, Lertzman teaches usage data (“detail transaction data” [0075]) being compared to the difference between the value at the end of a period and the start of the period (“summary transaction data”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Leon to include the validation as taught by Lertzman in order to verify the remittance is proper for the transactions completed (Lertzman, [0075]).

12. As to claim 18, Leon further shows:

the first audit record is received before the end of the audit period.

Again, this is inherent to the periodic auditing process. The first report would have been at the beginning of the audit period as the second report of the previous audit.

13. As to claim 19, the storage and later retrieval of a record previously sent is inherent to a system that compares the record to a later created one.

14. As to claim 20, Leon further shows:

the at least one register value in the first and second audit records includes a plurality of register values. (Column 18, lines 47-56)

15. As to claim 21, Leon further shows:

the at least one register value in the first and second audit records includes an ascending register value. (Column 99, lines 37-41)

16. As to claim 22, Leon further shows:

the at least one register value in the first and second audit records includes a total piece count register value. (Column 100, lines 44-47)

17. As to claim 23, Leon further shows:

the first and second digital signatures are verified utilizing a public key. 536

18. As to claim 24, Leon further shows:

indicating an error in the processing of the usage data. (Figure 6F)

19. As to claim 25, Leon shows:

- an interface circuit **122** to receive a first audit record, (Figure 5F, 5214)
- a second audit record (Figure 5F, 5214)
- and usage data from a value dispensing device (“SMD”), (Column 11, lines 59-61)
- the first audit record generated by the value dispensing device at a start of an audit period including a value of at least one register maintained by the value dispensing device at the start of the audit period (Figure 5F, 5214) (Column 18, lines 47-56)
- and a first digital signature, (Figure 5F, 5214)
- the second audit record generated by the value dispensing device at an end of an audit period including a value of at least one register maintained by the value dispensing device at an end of the audit period (Figure 5F, 5214) (Column 18, lines 47-56)
- and a second digital signature; (Figure 5F, 5214)
- a controller **240** coupled to the interface circuit **122** and configured to:
- (i) verify the first and second digital signatures; (Figure 5F, 5218)
- (iv) generate a usage report for the value dispensing device based on the usage data if the determined difference correlates with the corresponding data provided in the usage data. (Column 62, lines 14-43)
20. Leon does not expressly show:
- (ii) determine the difference between the value of the at least one register at the end of the audit period and the start of the audit period if the first and second digital signatures verify;

(iii) compare the determined difference with corresponding data provide in the usage data.

21. However, Lertzman teaches usage data (“detail transaction data” [0075]) being compared to the difference between the value at the end of a period and the start of the period (“summary transaction data”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Leon to include the validation as taught by Lertzman in order to verify the remittance is proper for the transactions completed (Lertzman, [0075]).

22. As to claim 29, the storage and later retrieval of a record previously sent is inherent to a system that compares the record to a later created one.

23. As to claim 30, Leon further shows:

the at least one register value in the first and second audit records includes an ascending register value. (Column 99, lines 37-41)

24. As to claim 31, Leon further shows:

the at least one register value in the first and second audit records includes a total piece count register value. (Column 100, lines 44-47)

25. As to claim 32, Leon further shows:

the first and second digital signatures are verified utilizing a public key. (Figure 5B, 536)

26. As to claims 42 and 43, Leon further shows:

The value dispensing device is a postage meter. (Title)

27. Claims 13-15 are ejected under 35 U.S.C. §103(a) as being unpatentable over Leon and Lertzman as applied to claim 12 above, and further in view of Mosher (5,799,322).

28. As to claim 13, Leon further shows:

the first and second audit records each include a respective time stamp, (Column 18, lines 47-56)

Leon does not show:

determining if the time stamp in the first audit record corresponds to the start of the audit period; and

determining if the time stamp in the second audit record corresponds to the end of the audit period.

29. Mosher shows the verification of time stamps prior to accepting audit data (Columns 31-32, lines 66-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of Leon to add time stamp validation, because this would further show that the data was valid for the audit period and not transactions outside of that time, as is done by Mosher (Column 32, 9-59).

30. As to claim 14, Leon further shows:

indicating an error in the processing of the usage data. (Figure 6F)

31. As to claim 15, Leon further shows:

the time stamp includes a date and a time (Column 18, lines 47-56)

32. Claims 26 and 27, as understood by the Examiner, are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Leon and Lertzman as applied to claim 25 above, and further in view of Mosher (5,799,322).

33. As to claim 26, Leon further shows:

the first and second audit records each include a respective time stamp, (Column 18, lines 47-56)

34. Leon does not show:

verifying the time stamp in the first audit record corresponds to the start of the audit period; and

verifying the time stamp in the second audit record corresponds to the end of the audit period.

35. Mosher shows the verification of time stamps prior to accepting audit data (Columns 31-32, lines 66-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the invention of Leon to add time stamp validation, because

this would further show that the data was valid for the audit period and not transactions outside of that time, as is done by Mosher (Column 32, 9-59).

36. As to claim 27, Leon further shows:

indicating an error in the processing of the usage data if one of , the time stamp in the first audit record or the second audit record does not correspond. (Figure 6F)

Claim Interpretation

37. The Examiner hereby adopts the following interpretations under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims.¹ Additionally, these interpretations are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

d. ***Audit***: “**1a**: a formal examination of an organization's or individual's accounts or financial situation **b**: the final report of an audit **2**: a methodical examination and review.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

¹ While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

- e. **For:** “1 a -- used as a function word to indicate purpose... b -- used as a function word to indicate an intended goal” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- f. **If:** “1 a : in the event that” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield, M.A., 1986.
- g. **To:** “2a -- used as a function word to indicate purpose, intention, tendency, result, or end.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
38. The Examiner makes the following interpretation based on Applicants' specification:
- h. “[T]he usage data **could** include the total amount of postage dispensed during the audit period (similar to the ascending register value) and the total piece count” [0020] [emphasis added].
39. Because the passage above recites “could” it does **not** constitute a lexicographic definition because “could” implies that it does not have to be as set forth. Therefore, there is insufficient precision and deliberateness to establish a lexicographic definition. However, because it is set forth in Applicants' specification, clearly it is an appropriate interpretation.
40. The Examiner reiterates his positions presented in the previous Office Actions, Paper 20081015, Paragraphs 41-43 and Paper 20080421, Paragraph 28.
41. In particular, the use of “if” or “when” often indicates an optional or conditional limitation. See *e.g.* MPEP §2106 II C.: “Language that suggests or makes optional but does not

require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]”; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) (“As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.”).

42. Also, limitations using the words “for” or “to” may be subject to an interpretation as intended use. Intended use is also addressed in MPEP §2106 II C.

Response to Arguments

43. Applicant's arguments filed 9 September 2009 have been fully considered but they are not persuasive.

44. Applicants argue:

45. “Claims 14 and 27 stand objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 14 and 27 have been amended to address the Examiner's concerns” (Remarks, Page 6, Paragraph 4).

46. Examiner's response:

47. The Examiner notes that claim 14 was not amended. However, the amendments to claims 13 and 26 do successfully address this issue. The Examiner makes this point solely for the sake of clarity in the record.

48. Applicants argue:

49. “The Office Action contends that the claim positively recites a dispensing device.

Applicants respectfully disagree. Claim 25 is directed to a data center and positively recites an interface circuit that receives audit records and usage data from a dispensing device, and a controller coupled to the interface circuit that is configured to process the audit records and the usage data. Claim 25 does not positively recite the dispensing device" (Remarks, Page 6, Paragraph 6).

50. Examiner's response:

51. Because Applicants state that the dispensing device is not part of the data center, any limitations directed toward the dispensing device are considered beyond the scope of the claim. Therefore, the particulars of the generation of the audit records by the dispensing device (“the first audit record...second digital signature” in lines 3-9) are beyond the scope of the claimed “data center.”

52. Applicants argue:

53. “[I]n Leon the system uses only a single audit record for the purpose of resetting a timer. There is no disclosure, teaching or suggestion in Leon of "receiving a second audit record from the value dispensing device, the second audit record generated by the value dispensing device at an end of the audit period, the second audit record including a value of the at least one register maintained by the value dispensing device at the end of the audit period and a second digital signature" as is recited in claim 12” (Remarks, Page 10, Paragraph 1).

54. Examiner's response:

55. The Examiner respectfully disagrees with Applicants' assertion that Leon only uses a single record for the purpose of resetting a timer.

56. The Examiner has relied upon the audit transaction for producing the audit records.

Applicants have admitted "Leon...is directed to a postage metering system in which an audit transaction is performed periodically" (Remarks, Page 9, Paragraph 1). Because the audit record is generated during the audit transaction and because the audit transaction is performed periodically, there must be more than one audit record.

57. Additionally, Applicants' allegation that a report generated by a function referred to as an audit transaction is merely for the purpose of resetting a timer is not an accurate portrayal of the reference. The name itself indicates that it has a different purpose than merely resetting a timer. See definition of "audit" above. The audit transaction is for the purpose of making data available in order to examine an individual's (device's) account. The timer is to ensure the data is provided on a regular interval.

58. Applicants argue:

59. "There is also no disclosure, teaching or suggestion in Leon of "receiving usage data from the value dispensing device for the audit period." While the messages in Leon may provide current information, there is nothing in Leon that describes any type of usage data for an audit period. The Office Action has not provided any indication as to where this feature is allegedly disclosed, taught or suggested in Leon" (Remarks, Page 10, Paragraph 2).

60. Examiner's response:

61. The Examiner has cited the STATUS message (Column 85, lines 1-6 & following table) for this limitation. The STATUS message contains, among other things, the Init Date, which establishes the beginning date and time of the period, the Current Date/Time, which establishes the end date and time for the period, and a Non-zero Piece Count, which states how many mail pieces have been sent since the Init Date.

62. Applicants argue:

63. “There is also no disclosure, teaching or suggestion in Leon of generating a usage report for the value dispensing system based on the usage data if the determined difference correlates with the corresponding data provided in the usage data as is recited in claim 12. The Office Action contends that Fig. 8F and Col. 62, lines 14-43, disclose this feature” (Remarks, Page 13, Paragraph 1).

64. Examiner's response:

65. The Examiner again notes that the argued limitation “*if* the determined difference correlates with the corresponding data provided in the usage data, generating a usage report for the value dispensing system based on the usage data” [emphasis added] is an optional or conditional limitation.

66. The Examiner also notes that this limitation states “based on the usage data.” The usage data as cited by the Examiner is the data in the STATUS message. The STATUS message

includes the Device ID, Current SMD State, Maximum Postage, Minimum Postage, Ascending Register, Descending Register, SMD Software Model, Licensing ZIP Code, and License ID.

67. The report, as cited by the Examiner, is shown in Figure 8F. In Figure 8F, the elements: Device ID, Device State, Maximum Indicum Value, Minimum Indicum Value, Ascending Register, Descending Register, Device Software Version, Licensing ZIP Code, and License ID are shown which respectively correspond to the Device ID, Current SMD State, Maximum Postage, Minimum Postage, Ascending Register, Descending Register, SMD Software Model, Licensing ZIP Code, and License ID of the STATUS message.

68. Applicant's remaining arguments with respect to claims 12-15, 18-32, 42, and 43 have been considered but are moot.

Conclusion

69. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

70. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

71. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/EVENS J. AUGUSTIN/
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